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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,356	11/24/2003	Martin C. Potorny	LUTZ 2 00258	4679

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EXAMINER

CHAN, WING F

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 08/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/720,356

Applicant(s)

POTORNY ET AL.

Examiner

Wing F. Chan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-37 is/are allowed.
- 6) ☒ Claim(s) 38-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                                   |                                                                                         |
|-----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                              | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.                                                |

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 38-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 38 is vague and indefinite in that the claim is incomplete, i.e. the claims ends with a “;”.

Dependent claims 39-43 are also rejected for the same reason since they are dependent on a rejected base claim and contain the same problem(s).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 38-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masuda (US PUB. NO. 2002/0118797) in view of Boubelik (US PAT. NO. 5365,570).

As to claims 38, 39, Masuda discloses a caller device (mobile video phone) for originating a 911 emergency call having a voice portion and a data portion (note that in the videophone mode, there is voice and image where the image is the data portion) including a microphone 10, a camera 54, keys for initiating the 911 call (e.g. [0032]), where the device transmits the voice and image to a remote emergency center, for example see sections [0009-0011, 0021-0040].

Masuda differs from the claimed invention in not disclosing a 911 button to initiate the emergency call. However, it is old and well known in the art for a mobile phone to comprise a 911 button to initiate an emergency call, for example see Boubelik abstract, Fig. 1. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Masuda to comprise a 911 button to initiate an emergency call to provide faster access and connection to an emergency center in case of emergency.

As to claims 40, 41, it is well known images can be still frame, motion or sequence of still frames, thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Masuda to transmit still frame, motion

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or sequence of still frames depending on the camera capabilities associated with the mobile phone.

As to claim 42, note that in Boubelik the "ON" button is pressed first and then pressing 911 button (20) to initiate an emergency call (e.g. col. 2 lines 41-59), this reads on the claimed safety mechanism.

6. Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Masuda and Boubelik as applied to claim 38 above, and further in view of Mobley et al (US PAT. NO. 6,327,342 hereinafter Mobley).

Masuda as modified by Boubelik differs from the claimed invention in not disclosing adding a timestamp to the emergency call. However, it is old and well known in the art to add a timestamp to the emergency call to ensure proper record keeping of the emergency call and no data is lost, for example see Mobley col. 4 lines 1-11, col.9 lines 53-64. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the controller in Masuda as modified by Boubelik to comprise means for adding a timestamp to the emergency call in order to ensure proper record keeping of the emergency call and that no data is lost.

7. Claims 1-37 are allowed.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wing F. Chan whose telephone number is 571-272-7493. The examiner can normally be reached on Monday to Friday from 9 AM to 6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 571-272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Wing F. Chan  
Primary Examiner  
Art Unit 2643

7/28/05